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INFO RUCNAFG/AFGHANISTAN COLLECTIVE PRIORITY
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RUCNDT/USMISSION USUN NEW YORK PRIORITY 4376
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RUEKJCS/JOINT STAFF WASHINGTON DC PRIORITY
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DEPT FOR SCA/FO DAS CAMP, SCA/A,
STATE PASS TO USAID FOR AID/ANE
NSC FOR JWOOD
OSD FOR MSHIVERS
CENTCOM FOR CG CJTF-82 AND POLAD

E.O. 12958: N/A

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SUBJECT: LOCAL COURT SENTENCES JOURNALIST TO DEATH; CASE
UNDER APPEAL

11. (SBU) On January 22 in a closed session, the Balkh provincial court sentenced 23-year old journalism student and reporter for the daily Jahan-e-Naw (New World) paper Sayad Parwez Kambaksh to death for distributing an article that judges said violated the tenets of Islam. Kambaksh had been arrested in October 2007 for circulating (after adding his own comments) a document critical of women's rights under the Koran he had downloaded from the internet. The case now goes to the first of two appeals courts, with Kambaksh remaining in custody during the appeals process. There are unconfirmed claims the sentence followed pressure from the local Council of Religious Scholars. While some local officials worked quietly behind the scenes to resolve the case, it threatens to polarize the community.

12. (SBU) According to the Balkh court and constitutional scholars, Kambaksh was prosecuted and sentenced under a combination of Article 347 of the Afghan Penal Code, which deals with crimes against religion, and Article 130 of the Afghan Constitution, which says that, if no particular law exists regarding an issue, a court's decision should be in accordance with the Hanafi school of Shar'ia law. Kambaksh was reportedly offered the possibility of quick release if he confessed to authoring the paper and apologized to the court. His brother claims that Kambaksh did admit to downloading and distributing the article but insisted he had not intended to denigrate Islamic values. There are unconfirmed reports that Kambaksh's classmates had first accused him of anti-Islamic activities, passing their complaints to local clerics and government officials. While the court claims that Kambaksh had said he would defend himself, Kambaksh's brother said he should have been provided with an attorney.

13. (SBU) A number of local officials have defended Kambaksh or worked quietly to defuse the case. The Balkh Provincial Council reportedly appealed for Kambaksh's release on January 6, after meeting with him. Governor General Noor Atta, who had told PRTOFF privately that he expected Kambaksh to "confess, express regret, apologize, and then be released," responded to the sentence by expressing confidence in the Afghan court system and highlighting Kambaksh's right to appeal. (He also drew attention to the active free press in Balkh.) The Chief Justice of Balkh, who had not presided at

the trial, has said that the final disposition of the case will likely depend on President Karzai's willingness to "forgive" Kambaksh.

¶4. (SBU) Efforts to resolve the case quietly and without polarizing the community failed. The New York-based Committee to Protect Journalists had written an open protest letter to President Karzai on January 17, citing the Kanbaksh case. The letter accused the Ministry of Information and Culture (with the backing of the National Directorate of Security and the National Council of Religious Scholars) of actions that leave Afghan journalists vulnerable to prosecution. Local journalists asserted that Kanbaksh was targeted in order to put pressure on his brother, an outspoken liberal journalist who has authored articles that local mullahs found offensive. Following the trial, the Balkh Province Deputy Prosecutor threatened to arrest journalists who protested the court's decision.

¶5. (SBU) Kambaksh's case comes during a period of increased pressure from conservative religious groups on the media and journalists (Septel). PRT Mazar-e Sharif is working with the local UNAMA office and consulting with moderate local officials to assess how best to encourage an acceptable resolution to this case. Embassy is quietly reaching out to the government and journalists organizations to express support for media freedoms and concern about this case without contributing to the increasingly charged and polarized public debate on the issue. Post recommends that any U.S. interventions be low-key and in private in order to avoid a further conservative backlash that might jeopardize Kambaksh's life.

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